

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

US BANK NATIONAL ASSOCIATION,
TRUSTEE,

Plaintiff,

vs.

RODNEY L. BELLE, et al.,

Defendants.

CASE NO. ED CV 08-00763 UA (RZ)

MEMORANDUM AND ORDER
SUMMARILY REMANDING
ACTION

Because it is plain that the removal of this action from San Diego County Superior Court to federal court was improper, the Court summarily remands the action *sua sponte*. As the Magistrate Judge explained in urging the denial of *in forma pauperis* status for the removing Defendant:

Early in May 2008, US Bank filed an unlawful detainer action in San Diego County Superior Court against Rodney L. Belle and 6 “Doe” Defendants believed to be in possession of the subject property in the city of San Diego. One Mary Bochum, implicitly asserting that she is one of the “Does,” now has removed that unlawful detainer action to this Court. For numerous reasons, the removal is improper, and the Court

1 should deny *in forma pauperis* status. First, no basis for
2 federal jurisdiction exists. No federal question is at stake in the
3 complaint; no federal agent is being sued; and there is no
4 diversity of citizenship. (Nor is the amount in controversy *in*
5 *the complaint* in excess of \$75,000. Although the Notice Of
6 Removal cites a figure of \$370,000 at issue, that figure
7 includes *Defendants'* claims. The underlying complaint is
8 emblazoned with the prominent sub-caption, "AMOUNT
9 DEMANDED DOES NOT EXCEED \$10,000."). Second, the
10 sole *named* Defendant, Mr. Belle, has not signed or joined the
11 notice of removal. Finally, even if removal to *some* federal
12 court were proper, it would be the Southern District, which
13 includes San Diego, not this District.

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15 The undersigned agrees. The party invoking the removal statute bears the
16 burden of establishing federal jurisdiction, and the removal statute, 28 U.S.C. § 1441, is
17 strictly construed against removal jurisdiction. *Ethridge v. Harbor House Restaurant*,
18 861 F.2d 1389, 1393 (9th Cir. 1988). In her notice of removal, Defendant Bochum
19 asserts no federal claim whatsoever. As to diversity jurisdiction, and as the Magistrate
20 Judge noted, Defendant Bochum "claims actual damages in excess of \$370,000," but it
21 is the *complaint's* claims, not the removing defendant's claims, that govern the propriety
22 of removal. "Questions of jurisdiction and removal are generally determined from the
23 face of a 'well-pleaded' complaint." *Geweke Ford v. St. Joseph's Omni Preferred Care*
24 *Inc.*, 130 F.3d 1355, 1357-58 (9th Cir. 1997), *citing Franchise Tax Bd. v. Construction*
25 *Laborers Vacation Trust*, 463 U.S. 1, 9-12, 103 S.Ct. 2841, 2846-47, 77 L.Ed.2d 420
26 (1983). Here, the complaint expressly disclaims any relief in excess of \$10,000. (Even
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1 if the amount in controversy were as great as Bochum asserts, she still fails to show
2 diversity of citizenship.)

3 For this reason and the other reasons cited by the Magistrate Judge, federal
4 jurisdiction is lacking, and venue is improper in this District in any event. The action is
5 REMANDED to the Superior Court for the State of California, San Diego County.

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7 DATED: 7/8/08

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11 ALICEMARIE H. STOTLER
12 CHIEF UNITED STATES DISTRICT JUDGE
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